

EXHIBIT B

Seltzer, Joanne

From: Richard T. Seymour [rick@rickseymourlaw.net]
Sent: Friday, July 20, 2007 2:23 PM
To: Fonstein, Cliff H.; Seltzer, Joanne
Cc: 'Rogin, Jonathan'; 'Adele Rapport'; 'Jullion R. Taylor'
Subject: Graves: Response to Voice-Mail on Counting Days
Importance: High

Joanne, I received your message about counting days for your Reply from the July 19 delivery of the paper copy of our Opposition. If defendant wants to move for an extra day to file its Reply on July 26, we will of course consent. Our understanding of the rules, however, is that the Reply is due on the 25th.

The paper copy did not contain anything that was different from the electronic copy served on July 18 through the court's ECF system, and that is the relevant service starting your time running.

Part 9 of the Court's "Procedures for Electronic Case Filing" states as follows:

9. Service of Documents by Electronic Means

Transmission of the Clerk's Notice of Electronic Filing of a document shall constitute service of such document upon any Filing User in that case. It remains the duty of the attorney for a party to review regularly the docket sheet of the case. Attorneys and pro se parties who are not Filing Users shall be served with a paper copy of any electronically filed pleading or other document. Service of such paper copy must be made according to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules.

Since all counsel for defendant are on the ECF system, and since the paper copy did not contain anything that was different from the electronic copy served on July 18 through the court's ECF system, the ECF filing seems to us to be the service contemplated by the rules. There was no duty to provide a paper copy, and plaintiff did so to return the courtesy shown to us by providing us with a courtesy paper copy of your Motion. Mentioning it in the Certificate of Service does not seem to us to be capable of changing the rules.

If you have any authority to the contrary, we would of course be happy to look at it. If our understanding of the rules is correct, however, defendant would be taking a risk by filing on the 26th without leave of court.

As stated above, however, plaintiff will consent to an appropriate motion asking leave to file on the 26th. We would like to see a draft of the Motion and accompanying papers before such a motion is filed, and will get back to you as quickly as possible.

Rick

Richard T. Seymour
Law Office of Richard T. Seymour, P.L.L.C.
1150 Connecticut Avenue N.W.
Suite 900
Washington, D.C. 20036-4129
Voice: 202-862-4320
Cell: 202-549-1454
Facsimile: 800-805-1065
e-mail: rick@rickseymourlaw.net
Web Site: www.rickseymourlaw.com

CONFIDENTIALITY: Please note that (1) e-mail communication is not a secure method of communication, (2) any e-mail that is sent to you or by you may be copied and held by various computers it passes through as it goes from me to you or vice versa, (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or my computer or some computer unconnected to either of us which this e-mail passed through. I am communicating to you via e-mail because you have consented to receive communications via this medium. If you change your mind and want future communications to be sent in a different fashion, please let me know AT ONCE.

The information contained in this e-mail transmission may be legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this transmission is strictly prohibited. If you have received this transmission in error, please call (202) 862-4320.